

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL SCOTT MILLER,

Plaintiff,

vs.

BRENT LOTTMAN, in his official
capacity, and MATT KADAVY, in his
individual capacity,

Defendants.

4:21CV3092

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Filings 37 and 42, in which he renews his requests for appointment of counsel.¹ As the court has previously explained (see Filing 19), "[t]here is no constitutional or statutory right to appointed counsel in civil cases." *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). A district court "may request an attorney to represent" an indigent civil litigant, 28 U.S.C. § 1915(e)(1), but it has a "good deal of discretion" in deciding whether to do so, *Chambers v. Pennycook*, 641 F.3d 898, 909 (8th Cir. 2011). "Relevant criteria for determining whether counsel should be requested include the factual and legal complexity of the case, the plaintiff's ability to investigate the facts and to present the claims, and the presence or absence of conflicting testimony." *Recca v. Pignotti*, 859 Fed. App'x 3, 2021 WL 2285235, at *1 (8th Cir. June 4, 2021) (citing *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996)). Having once again considered these factors, the court concludes that appointment of counsel is not indicated at this time.

IT IS THEREFORE ORDERED:

1. Plaintiff's motions for appointment of counsel (Filings 37 and 42) are denied without prejudice.

¹ Also pending are four motions for leave to amend. See Filings 36, 39, 40, and 41. Defendants shall have until January 17, 2022, to respond to these motions, and Plaintiff shall have 7 days after receiving Defendants' response to reply.

2. Defendants shall have until January 17, 2022, to respond to Plaintiff's motions for leave to amend (Filings 36, 39, 40, and 41), and Plaintiff shall have 7 days after receiving Defendants' response to reply.

Dated this 6th day of January 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge